



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

PLANNING COMMISSION MINUTES

REGULAR MEETING

JANUARY 25, 2000

PRESENT: Kennett, Lyle, McMahon, Mueller, Pinion, Ridner, Sullivan

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Police Captain (PC) Sullivan, and Administrative Secretary Smith

REGULAR MEETING

Chairman Pinion called the regular meeting to order at 7:00 p.m.

DECLARATION - POSTING OF AGENDA

Administrative Secretary Smith certified that this meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OLD BUSINESS

1) MP-93-08: VILLANOVA I DELINQUENCY STATUS

PM Rowe presented the staff report, followed by the recommendation that the Commission establish April 25, 2000 as the next deadline for the applicant to pull building permits, in order to give the Commission the opportunity to take the necessary action at their meeting that evening, should the permits not be pulled by the end of that business day.

Chairman Pinion opened the public hearing for comments.

There being no comments, the public hearing was closed.

PM Rowe answered questions posed by the Commission.

COMMISSIONER LYLE/RIDNER MOTIONED TO ESTABLISH THE DEADLINE FOR THE APPLICANT FOR THE VILLANOVA I PROJECT TO

PULL BUILDING PERMITS TO APRIL 25, 2000. THE MOTION CARRIED UNANIMOUSLY.

PUBLIC COMMENTS

Chairman Pinion opened the meeting to public comments for items not on the agenda.

There being none, Chairman Pinion closed the meeting to public comments.

NEW BUSINESS

**2) UP-99-09:
EL TORO-
SANTA CLARA
VALLEY
TRANSPOR-
TATION
AUTHORITY**

A request for a conditional use permit to establish radio repeater system for public transit vehicles and City of Morgan Hill vehicles and facilities. The use will involve the replacement of an existing shelter containing City of Morgan Hill communications equipment with a new shelter of similar height, size and appearance at the same location. The new shelter will be used jointly by the Santa Clara Valley Transportation Authority (VTA) and the City of Morgan Hill as a microwave radio repeater site for communication purposes. PM Rowe presented the staff report.

PM Rowe pointed out to the Commissioners a letter received from Mr. Rich, adjacent property owner. He indicated that approximately half of the road right-of-way to the water tank site crosses over a portion of his property and the other half is on adjacent City property. In his letter Mr. Rich make reference to a 1986 agreement that indicates that only the City and CellularOne has permission to use the access road to this site, and it is implied that Mr. Rich will have to grant permission to also allow VTA to use the access road. PM Rowe added that this issue is something that the City will need to address with Mr. Rich. PM Rowe continued by stating that the accessibility issue is separate from the application, and that the findings that the Commission will need to make will be whether the site is suitable and adequate. He stated that Staff believes that if this request was a new facility being proposed, then there would be concerns, and noted that in comparison with the water tank that is currently located on El Toro, the visual effects of the facility is very minimal and that they feel the replacement structure and the new antennae equipment on the existing pole will have no additional visual impact. PM Rowe concluded with Staff's recommendation for approval of the use permit application subject to the findings and conditions outlined in Resolution No. 00-01. PM Rowe responded to questions from the Commission regarding the use permit request.

PC Sullivan responded to an inquiry from Chairman Pinion, stating that the antennae sizes being proposed are mast-style, and further clarified that only the space that is currently available will be used to mount the antennae and that they will not exceed the height of the pole. He indicated that there are several antennae that are no longer necessary, as the City now contract with the County Central Fire Protection District. PC Sullivan also responded to Chairman Pinion's question regarding whether the City would be receiving rents from VTA for use of this facility. He replied that there are no rents involved, and that the entire concept has been pursued as a cooperative agreement by each of the agencies as a mutual

benefit to both agencies. PC Sullivan further stated that all the improvements that are being made on the site will be at VTA's expense, including the additional receiver that will provide a second channel that will be available after the transition for the City's use.

Chairman Pinion opened the meeting to public comments.

Bruce Tichinin, 440 Claremont Dr., attorney for the Save El Toro Association, spoke in opposition of the application. He requested the Commission to direct Staff to research the possibility of placing the antenna on Nob Hill or some alternative site rather than distract from the scenery on El Toro. Mr. Tichinin also suggested that Staff might attempt to get VTA to agree to make improvements on the Nob Hill site, and seize the opportunity to at least look into contributing to the tradition of trying to make El Toro peak as scenic as possible, if it is technologically feasible in terms of the working of the equipment and the goals of the project.

Bob Rich, property owner of the right-of-way over the road, stated that his problem was not with the esthetics of the proposal, but that he was concerned with the cavalier treatment by Staff when he proposed to put a 71" antenna on his property as a paging repeater and was denied the request. Commissioner Mueller asked Mr. Rich if when he was told that his request was denied, if he appealed to the Commission or the City Council. Mr. Rich stated that he did not, because the pager company advised him that they did not want to pursue his request any further because they did not want to fight City Hall. Commissioner McMahon asked for clarification from Mr. Rich with regard to the 1986 agreement which granted the right-of-way, and whether the agreement was related to the denial of his request for the placement of the antenna on his property as a paging receiver. He stated that it was not related to his request for that purpose.

Chairman Pinion closed the public comments.

Commissioner Sullivan asked if alternative sites were considered for the proposed antennae, and PC Sullivan indicated that during the year-long process they had looked at Nob Hill as an alternative site, but the purpose of the VTA system is a Countywide integrated system from Palo Alto to South County, so the elevation of El Toro was required as opposed to that of the Nob Hill site. PM Rowe explained that the other reason why Nob Hill is not considered a viable location for the proposed facility is that there is no more room on Nob Hill. He stated that Nextel and GTE Mobilnet have antennae on Nob Hill, as well as the City has additional communication equipment and a two million gallon water reservoir there.

Chairman Pinion reopened the public hearing for further comments.

Mr. Tichinin stated that planting trees would help, but it would be quite tricky to go beyond that. He requested the Commission to require a representation from VTA of what the proposed pole would look like against a photograph of El Toro, so that they would be able to make a more informed decision.

Chairman Pinion closed the public comments.

COMMISSIONER MUELLER/LYLE MOTIONED TO APPROVE RESOLUTION NO. 00-01, WITH THE CAVEAT THAT THE ACCESS AGREEMENT BE WORKED OUT BETWEEN THE CITY AND MR. RICH. Commissioner Sullivan requested Staff to take this opportunity to do what they can to make it less obtrusive. Chairman Pinion also stated that the building and equipment should be painted according to Staff's direction, and he requested Staff to consult with a professional to select colors. PM Rowe stated that they could certainly do that. Chairman Pinion further stated that he would prefer that this item be continued until such time that additional information could be provided. Commissioner Sullivan stated that she trusted Staff's judgment with this matter. Commissioner Mueller stated that he felt the proposal is a public safety benefit because there are many citizens and children that ride the VTA buses, and that the potential for a second channel for the police exist. **THE MOTIONED CARRIED 7-0.**

Commissioner Mueller asked that staff research Mr. Rich's situation of denial. PM Rowe stated that his speculation was that the company may have inquired about the possibility of locating the antenna there, and were advised that a few years prior that the Commission had denied a use permit for that purpose, for the same sensitive site location, so they may have felt that given the circumstances that they did not want to pursue the request. PM Rowe also noted that staff does not have the authority to deny such a request, and as far as he can recall, they made no application with the City.

3) REVIEW OF PUBLIC HEARING NOTICING POLICY

PM Rowe presented the staff report. The Commission entered into discussion. Commissioner Sullivan indicated that her concern is that in rural areas, that a 300 ft. radius may be as few as 2 or 4 houses, and that 4 houses away may not be adequate. She questioned if perhaps there is a precedent for other areas such as Morgan Hill to have a mailing radius of more than 300 ft., and if so, what the implication would be. PM Rowe responded that a different radius other than 300 ft. can be set; however, you would have to standardize the notification process and ensure it is done on a consistent basis. He pointed out that cost is a major issue in expanding the radius, and added that legal noticing is also advertised in the newspaper. Commissioner McMahon echoed Commissioner Sullivan's concern with regard to the 300 ft. radius not being adequate. For instance, she questioned if just those property owners that are within 300 ft. of the applicant property are noticed, or if all the property owners who live on the street that is going to be extended are included in the noticing, as they are going to be impacted by the extension of their street. PM Rowe stated that in those areas where the Commission gave Staff direction to expand the area of notification for an application, Staff gave expanded notification to include that greater area.

PM Rowe pointed out that the ownership records are only updated once a year. Commissioner Mueller also added that you cannot set the rules arbitrarily, and that the important thing is that the noticing would have to be done absolutely consistent each and every time, or someone could file suit against the City stating that due process was not followed, and that could become a real problem. Chairman Pinion stated that he disagreed with Commissioner Mueller's comments, indicating that currently the minimums that the State has established are being followed, and that the State says the minimum can be exceeded; therefore, he did not see where increased complexity or risk is caused by

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exceeding the minimum radius.

Commissioner McMahon stated that she would like to see three of the following things happen with regard to the public hearing notification: 1) Clarification of the kinds of action for which notice must be given; 2) Staff take a limited survey with other cities to see what the extent of noticing they are doing in terms of distance; and 3) Staff also find out if any other cities have addressed the impact of the property owners outside that limit but who are on streets that are going to be changed for traffic flow, speed limits, or access. Commissioner Lyle asked if the City tries to do anything special when they are aware that there has been many people that have been effected. PM Rowe said that there is posting of a sign for subdivisions that has been successful and a good tool for making more recent residents aware of what is happening on the adjacent property. Commissioner Sullivan also wanted Staff, in absence of extending the radius beyond 300 ft., to check with other cities to see what other ways they have of notifying property owners.

Commissioner Mueller offered the following suggestions: 1) Reference the City's web site address and the City's general email address on the Channel 34 message, and on the public hearing notices that are mailed out; 2) Look at the possibility of using a different color envelope; and 3) Put an article in the City Visions Newsletter.

Chairman Pinion noted three issues with regard to the public hearing noticing: 1) Area of coverage; 2) Quality of the list; and 3) How information is presented. He also suggested changing the language in the letter to the property owners notifying them of the public hearing to be less impassive and more forceful, and that when there are multiple applications listed in a noticing that there be something more distinctive used to identify which application is relative to the property owners receiving the notice.

PM Rowe pointed out that Staff do receive quite a few responses from residents both at the counter and by the telephone.

ANNOUNCEMENTS

- League of California Cities Planners Institute, March 1 - 3, 2000 in Monterey.

CITY COUNCIL REPORTS

ADJOURNMENT There being no further business, Chairman Pinion adjourned the meeting at 8:30 p.m.

MINUTES RECORDED AND PREPARED BY:

PLANNING COMMISSION MINUTES

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FRANCES O. SMITH, Administrative Secretary

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